

ORDINANCE NO. 1093 - 2017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA, AMENDING ARTICLE VIII OF THE CODE OF ORDINANCES, CHANGING ITS TITLE, FURTHER AMENDING THE SECTIONS THEREIN AND CREATING SECTIONS TO PROVIDE FOR DEFINITIONS, CODE COMPLIANCE BOARD COMPOSITION AND TERMS, ROLE OF THE CITY ATTORNEY, DESIGNATION AND AUTHORITY OF CODE INSPECTOR, ENFORCEMENT PROCEDURES, CONDUCT OF HEARING, POWERS OF THE BOARD, ADMINISTRATIVE FINES, COSTS, LIENS, ADDITIONAL REMEDIES, APPEALS, AND NOTICES; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to Article VIII, Section 2 of the Florida Constitution, and Chapter 162, Florida Statutes, the City of Miami Springs ("City") is authorized to promote, protect, and improve the health, safety and welfare of its citizens; and

WHEREAS, pursuant to Chapter 162, Florida Statutes, the City is authorized to create a code compliance system and enact regulations and procedures to impose administrative fines and other noncriminal penalties for purposes of enforcing the City's codes when such codes are violated; and

WHEREAS, the City Council finds that it is in the best interest of its citizens to provide for updated methods, procedures, regulations and remedies that the City may utilize to ensure compliance with the City Code; and

WHEREAS, following proper notice to the public and after having received input and participation by interested members of the public and staff, the City Council finds that this Ordinance is in the best interest of its citizens.

CODING: Words in ~~struck through~~ type are deletions from existing law;
Words in underscoring type are additions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS:

Section 1. Recitals. The foregoing recitals are confirmed, adopted, and incorporated herein and made a part hereof by this reference.

Section 2. Amendment. The City of Miami Springs Code of Ordinances is hereby amended to read as follows:

* * *

Chapter 32 – BOARDS, COMMISSIONS, COMMITTEES

ARTICLE VIII. – CODE COMPLIANCE CODE ENFORCEMENT BOARD

Sec. 32-65. - Establishment.

- (A) ~~Pursuant to the provisions of F.S.A. § 162.01 et seq., there is hereby created and established a code enforcement board for the City to enforce the occupational license, building, zoning, sign, and other related codes and ordinances of the City.~~
- (B) ~~The provisions of F.S.A. § 162.01 et seq. as amended, be and the same are hereby adopted by reference and are made a part of this Code of Ordinances.~~

The city hereby establishes and creates a code compliance board with the authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective and inexpensive method of enforcing the city's codes and ordinances pursuant to chapter 162, Florida Statutes, as amended.

Sec. 32-66. - ~~Members; terms.~~ Definitions.

- (A) ~~The code enforcement board shall consist of seven members who are residents of the City. Appointments shall be made in accordance with applicable law and ordinances, based on experience or interests in the fields of zoning and building control. Whenever possible the membership shall include an architect, a businessman, an engineer, a general contractor, a subcontractor, and a licensed real estate agent or broker.~~
- (B) ~~The first two members shall be appointed for a term of one year. The second three members shall be appointed for a term of two years. The third two members shall be appointed for a term of three years. Thereafter~~

CODING: Words in ~~struck through~~ type are deletions from existing law;
Words in underscored type are additions.

~~all appointments shall be made for a term of three years. Appointments to fill any vacancy shall be for the remainder of the unexpired term of office.~~

The following words, terms and phrases, shall have the meanings ascribed to them by this section when used in this article:

“Board” means the city code compliance board as appointed by the city council or designee pursuant to the provisions of this article.

“Code inspector” means a code compliance inspector or any city employee authorized by the city manager or designee to ensure compliance with the city code.

“Repeat violation” means a violation of a provision of the city code by a person who has been previously found by a code compliance board or any other quasi-judicial or judicial process, to have violated or who has admitted violating the same city code provision within 5 years prior to the violation, notwithstanding the violations occur at different locations.

Sec. 32-67. - Powers and duties. Code compliance board; organization.

~~The code enforcement board shall have the powers provided by F.S.A. § 162.08 and any additional duties as may be directed by the City Council by resolution.~~

The Code Compliance board shall be organized as follows:

- (1) The board shall be comprised of seven members, the qualifications of which shall be as specified in section 32-01. Whenever possible, the City Council shall endeavor to appoint individuals with licenses, experience, and/or education in architecture, engineering, construction, law, and/or real estate.
- (2) Each councilmember shall be responsible for appointing at least one (1) member to the board. The additional two members of the Board shall be individually selected by members of the Council, the responsibility of which will rotate, with the Mayor and Council Member in Group 1 having the first two appointments, and following sequentially through the Council upon the expiration of the board members term. Upon the expiration of a board member's term, the City Council member making the original appointment, or that City Council member's successor in office, shall appoint the board member to serve during the new board term or replace the member for the new term, except for the positions selected by the rotation of the City Council. If, for any reason, an appointment should not be made to fill an expired term, the incumbent will continue to serve until his successor has been appointed.

CODING: Words in ~~struck through~~ type are deletions from existing law;
Words in underscored type are additions.

(3) Two additional members shall be appointed to the board and designated as "alternate members," who shall be appointed by the Mayor and Councilmembers in the same manner as regular board members are appointed, with the Council Members in Groups 2 and 3 having the first appointments, and so on, as noted in section (2) above. The alternate member shall be required to attend all board meetings and shall be subject to the same appointment, terms, and vacancy provisions as are regular board members.) In the temporary absence or disability of a regular member, or in an instance where a regular member is otherwise disqualified to sit on a particular matter, the alternate member shall sit as a board member to obtain a full membership, or, as nearly as possible, a full membership. When so acting, the alternate member shall have full rights of participation and voting as regular members; his vote shall be deemed that of a member in reaching a decision on a matter. In instances where the alternate member is not sitting as a member, he shall have the right to participate in board discussions and to ask questions, but shall have no right to vote or make motions. When the alternate member has been required to sit as a member on a particular matter the alternate shall continue to sit as a board member through the disposition of the matter; and he shall not be replaced until the hearing on the matter is concluded.

- (3) The initial appointments to each board shall be as follows:
- (a) Two members appointed for a term of 1 year each by the Mayor and Council Member in Group 1.
 - (b) Three members appointed for a term of 2 years each by Council Members in Groups 2, 3, and 4.
 - (c) Two members appointed for a term of 3 years each by the Mayor and Council Member in Group 1.
 - (d) One alternate member shall be appointed to each board for an initial term of two years, the other alternate member shall be appointed to an initial term of one year, by Councilmembers in Groups 2 and 3, respectively.

Thereafter, any appointment shall be made for a term of 3 years.

(5) An appointment to fill any vacancy on a board shall be for the remainder of the unexpired term. A failure of a board member to follow the attendance policy provided in section 32-02(A)(2) shall be deemed removed from the board. The city clerk shall inform the city council in writing of the vacancy and the city council shall promptly fill such vacancy.

(6) Board members shall serve in accordance with all applicable city laws and may be suspended and removed as per Section 32-02.

- (7) Board members shall elect a chairperson, who shall be a voting member, from among the members of the board. The presence of four or more members shall constitute a quorum of the board. Members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by city council or as are otherwise provided by law.
- (8) A special magistrate, appointed by the city council or pursuant to city council authorization, may preside over code compliance hearings in the same capacity as the board. A special magistrate shall have the same status as the board, pursuant to Chapter 162, Florida Statutes. A special magistrate shall be an attorney admitted to practice law in the state of Florida and in good standing with the Florida Bar, and have a thorough understanding of city code compliance matters, the city code and all applicable laws and regulations. References in this article, except in this section, to a board shall be synonymous with the term "special magistrate."

Sec. 32-68. - City Attorney to serve as counsel. Representation by the city attorney.

~~The City Attorney or the Assistant City Attorney~~ City Attorney's designee shall represent the city before the board and serve as counsel to the code enforcement board and shall provide legal representation, substantive and procedural interpretations, and all other guidance required by the board. The City Council may, in its discretion, appoint another attorney to assist the City's code enforcement department in the preparation and presentation of cases before the board.

Sec. 32-69. – Code compliance procedures

~~The procedure before the code enforcement board and the conduct of the hearing shall be in accordance with the provisions of this Code of Ordinances, except as required by virtue of the provisions of F.S.A. §§ 162.06, 162.07.~~

It shall be the duty of the code inspector to initiate code compliance proceedings when, based upon personal investigation, the code inspector has reasonable cause to believe that a violation of a duly enacted city code exists. No member of the board shall have the power to initiate such proceedings.

(A) Notice of violation and summons to appear.

- (1) Except as provided in subsections (2) and (3), if a violation of the code is found, the code inspector shall notify the violator in writing and give the violator a reasonable time to

CODING: Words in ~~struck through~~ type are deletions from existing law;
Words in underscored type are additions.

correct the violation. Should the violation continue beyond the time specified for correction, the code inspector shall request a board hearing. The city attorney shall review and approve each code compliance case prior to being scheduled for a board hearing. The board, through its clerical staff, shall schedule a hearing, and written notice of the hearing shall be provided to the violator pursuant to section 32-75 of this article. If the violation is corrected and then recurs or if the violation is not corrected by the specified time for correction by the code inspector, the case may be presented to the board, even if the violation has been corrected prior to the hearing, and the notice shall so state.

- (2) If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify the board by requesting a hearing. The board, through its clerical staff, shall schedule a hearing and provide notice pursuant to section 32-75 of this article. The case may be presented to the board even if the repeat violation has been corrected prior to the board hearing, and the notice shall so state. If a repeat violation has been corrected but is presented to the board at a hearing, the board retains the right to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator.
- (3) If the code inspector has reason to believe that a violation or the condition causing the violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the violator and may immediately notify the board and request a hearing.
- (4) If the owner of the property that is subject to a code compliance proceeding before the board transfers ownership of such property between the time the initial notice was served and the time of the hearing, such owner shall:
 - (a) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.
 - (b) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code compliance proceeding received by the transferor.

- (c) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code compliance proceeding.
- (d) File a notice with the code compliance official of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within 5 days after the date of the transfer.

A failure to make the disclosures described in paragraphs (a), (b) and (c) before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held.

(B) Citations.

- (1) (a) A violation of the code is a civil infraction for which a citation may be issued pursuant to this section. Prior to issuing a citation, a code inspector shall provide notice to the person that the person has committed a violation of the code and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code inspector finds that the person has not corrected the violation within the time period, a code inspector may issue a citation to the person who has committed the violation. A code inspector does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if a repeat violation is found or if the code inspector has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.
- (b) A citation issued by a code inspector shall include but not be limited to the following:
 - (1) The date and time of issuance.
 - (2) The name and address of the person to whom the citation is issued.
 - (3) The date and time the violation was committed.

- (4) The facts constituting reasonable cause.
- (5) The section number of the specific code that has been violated.
- (6) The name of the code inspector and their division or department.
- (7) Instructions and due date to pay the civil penalty or to contest the citation.
- (8) The applicable civil penalty if the person elects to contest the citation.
- (9) The applicable civil penalty if the person elects not to contest the citation.
- (10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear at a hearing to contest the citation, the person shall be deemed to have waived their right to contest the citation and that, in such case, judgement may be entered against the person for an amount up to the maximum civil penalty.
- (11) Notice that the person may be liable for the reasonable costs of the hearing to contest the violation should the citation be affirmed by the board at such hearing.

- (2) The maximum civil penalty for a civil infraction shall not exceed \$500.
- (3) Citations shall be served in the same manner as provided by section 32-75 of this article.
- (4) A violator who has been served with a citation shall elect either to:
 - (a) Pay the civil penalty in the manner indicated on the citation, and correct the violation; or
 - (b) Request an administrative hearing before the board to appeal the determination of the code compliance officer which resulted in the issuance of the citation.
- (5) If the violator chooses to appeal the citation, he or she must file a written request for an administrative hearing within 20 calendar days after service of the citation.
- (6) The administrative hearing shall be conducted in accordance with section 32-70 of this article, as applicable.
- (7) If the violator fails to pay the civil penalty and correct the violation within the time specified by code compliance officer or fails to timely appeal the citation, such failure shall constitute a waiver of the violator's right to an administrative hearing before the board. Such waiver shall be deemed an

CODING: Words in ~~struck-through~~ type are deletions from existing law;
Words in underscored type are additions.

admission of the violation and civil penalties may be assessed accordingly.

- (8) A certified copy of an order affirming the citation and imposing a civil penalty may be recorded in the public records of Miami-Dade County, Florida, and all enforcement remedies shall be applicable as provided by section 32-72(C) of this article.

Sec. 32-70. - ~~Fines and liens.~~ Conduct of hearing.

~~Fines and liens authorized by virtue of the provisions of F.S.A. § 162.09 may be authorized by the code enforcement board after a hearing at which notice is given and the violator has an opportunity to present evidence and argument in relation thereto.~~

- (A) Upon request by the code inspector, or at such other times as may be necessary, the chairperson of the board may call a code compliance hearing; such hearing also may be called by written notice signed by at least three members of the seven-member board. The board, at any hearing, may set a future hearing date. Minutes shall be kept of all hearings by the code compliance board, and all hearings and proceedings shall be open to the public. The city shall provide clerical and administrative personnel as may be reasonably required by the board for the proper performance of its duties.
- (B) All code compliance hearings shall be open to the public and any person wishing to speak about a case at issue may be given an opportunity to be heard by the board after the city attorney has presented the case.
- (C) Prior to hearing the cases on the agenda of the day, the chairperson of the board shall entertain special business or announcements by the city attorney.
- (D) Each case before the board shall be presented by the city attorney after determining that the case is legally sufficient to be presented to the board. If the city attorney prevails in prosecuting the case before the board, the city attorney shall be entitled to recover all costs incurred in prosecuting the case and such costs may be included in the lien authorized by section 32-72 of this article.
- (E) The board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The city attorney shall provide a brief description of the case, including but not limited to the case number, the property address and owner, and the violations at issue. Thereafter, the alleged violator shall plea either guilty or not guilty to the violations at issue. If the alleged violator pleads guilty, the board may proceed to take testimony from the code inspector, as well as the violator,

in order to assess a reasonable time for compliance and fines in the event compliance is not achieved. If the alleged violator pleads not guilty, the city attorney shall proceed to prosecute the case.

- (F) The board shall take testimony from the code inspector. The alleged violator shall be given an opportunity to testify, but shall not be compelled to offer testimony or any evidence. Each party to the hearing shall have the right to call and examine witnesses, introduce exhibits, cross-examine opposing witnesses, impeach and rebut evidence.
- (F) If notice of the hearing has been provided to the alleged violator, the hearing may be conducted and an order shall be rendered in the violator's absence.
- (G) The formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Any relevant evidence is admissible if the board finds it competent and reliable, regardless of the existence of any common law or statutory rule to the contrary. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.
- (H) The city shall have the burden of proof to show, by the greater weight of the evidence, that the alleged violation occurred or continues to exist, and that the alleged violator committed or is responsible for that violation.
- (J) At the conclusion of the hearing, the board shall issue findings of fact, based on the evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with the powers granted herein. If the hearing is before the board, the findings shall be by motion approved by a majority of those members present and voting, except that at least four members of the board, which may include alternate members, must vote in order for the action to be official. The order shall be prepared by the board secretary and executed by the board chairperson at the conclusion of the board meeting at which such order was issued. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed if the order is not complied with by said date. If the order is not complied with by said date, a certified copy of such order shall be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the board

shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

Sec. 32-71. – Appeals Powers of the board.

~~Appeals shall be taken in a manner provided by law as set forth in F.S.A. § 162.11.~~

The board shall have the power to:

- (1) Adopt rules for the conduct of its hearings.
- (2) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the sheriff of the county or police department of the city.
- (3) Subpoena evidence to its hearings.
- (4) Take testimony under oath.
- (5) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

Sec. 32-72. – Administrative fines; costs of repair; liens.

- (A) The board, upon notification by the code inspector or city attorney that an order of the board has not been complied with by the set time for compliance or upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the board or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code inspector. In addition, if the violation is a violation described in section 32-69(A)(3), the board shall notify the city, which may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the city to make further repairs or to maintain the property and does not create any liability against the city for any damages to the property if such repairs were completed in good faith. If a finding of a violation or a repeat violation has been made as provided in this part, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, the board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in paragraph (B)(1).
- (B) (1) A fine imposed pursuant to this section shall not exceed \$250 per day for a first violation and shall not exceed \$500 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection (1). However, if the board finds the violation

CODING: Words in ~~struck through~~ type are deletions from existing law;
Words in underscored type are additions.

to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000 per violation.

- (2) In determining the amount of the fine, if any, the board shall consider the following factors:
- (a) The gravity of the violation;
 - (b) Any actions taken by the violator to correct the violation; and
 - (c) Any previous violations committed by the violator.

- (C) A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records of Miami-Dade County, Florida, and thereafter shall constitute a lien against the property on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the city, and the city may execute a satisfaction or release of lien entered pursuant to this section. The city attorney may foreclose upon any lien that remains unpaid after 3 months from the filing of any such lien. The duration and effect of such lien shall be consistent with state law, which is a period of 20 years. No lien created pursuant to the provisions of this part may be foreclosed on real property that is a designated homestead under s. 4, Art. X of the State Constitution. The money judgment provisions of this section shall not apply to real property or personal property that is covered under s. 4(a), Art. X of the State Constitution.

32-73. – Mitigation of Fines.

- (A) The violator, or the violator's successors or assigns who have an ownership interest in the property encumbered by a lien pursuant to this article may request a mitigation hearing to reduce the fines only after the violations encompassed within the code compliance case have been corrected. Upon receipt of a written request for a mitigation hearing, the clerk for the board shall set the matter for a hearing before the board.
- (B) A mitigation hearing is not an appeal or a de novo review of the code compliance case. The formal quasi-judicial procedures shall not apply.
- (C) At the mitigation hearing, the board may consider the following criteria:
- (1) Good cause for a reduction of the fines.

CODING: Words in ~~struck through~~ type are deletions from existing law;
Words in underscored type are additions.

- (2) The cooperation of the violator, including whether the violator appeared before the board at the original hearing.
 - (3) The gravity of the violation.
 - (4) The actions taken by the violator to correct the violation.
 - (5) Whether there was an extraordinary hardship, which affected compliance.
 - (6) Whether the violator is a repeat violator.
 - (7) The total or estimated costs incurred by the city for the handling of the case.
 - (8) The amount of the proposed reduction.
 - (9) Any equitable considerations raised by the violator or the city relating to the amount of the reduction.
 - (10) The number of days that the violation existed.
- (D) In no event shall the fines be reduced below the costs incurred by the city in its prosecution of the violations.
- (E) The board has the discretion to grant or deny a request for mitigation.

32-74. – Duration of lien.

Pursuant to section 162.10, Florida Statutes, as amended, no lien provided under the Local Government Code Enforcement Boards Act shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is commenced pursuant to section 162.09(3), Florida Statutes, as amended, in a court of competent jurisdiction. In an action to foreclose on a lien or for a money judgment, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee that it incurs in the action. The city shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

32-74. – Appeal.

An aggrieved party, including the city, may appeal a final administrative order of the board to the Circuit Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the board. An appeal shall be filed within 30 days of the execution of the order to be appealed.

32-75. – Notice.

CODING: Words in ~~struck through~~ type are deletions from existing law;
Words in underscored type are additions.

- (A) All notices required by this article shall be provided to the alleged violator by:
- (1) Certified mail, and at the option of the city, return receipt requested, to the address listed in the tax collector's office for tax notices or to the address listed in the county property appraiser's database. The city may also provide an additional notice to any other address it may find for the property owner. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. If any notice sent by certified mail is not signed as received within 30 days after the postmarked date of mailing, notice may be provided by posting as described in subparagraphs (2)(b)1. and 2.;
 - (2) Hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the local governing body;
 - (3) Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or
 - (4) In the case of commercial premises, leaving the notice with the manager or other person in charge.
- (B) In addition to providing notice as set forth in subsection (A), at the option of the board or the city, notice may be served by publication or posting, as follows:
- (1) Such notice shall be published once during each week for 4 consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the board is located. The newspaper shall meet such requirements as are prescribed under chapter 50, Florida Statutes, for legal and official advertisements. Proof of publication shall be made as provided in sections 50.041 and 50.051, Florida Statutes.
 - (2) Posting.
 - (a) In lieu of publication as described in paragraph (B), such notice may be posted at least 10 days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be at city hall.

CODING: Words in ~~struck through~~ type are deletions from existing law;
Words in underscored type are additions.

- (b) Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.
 - (c) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (A).
- (C) Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (A), together with proof of publication or posting as provided in subsection (B), shall be sufficient to show that the notice requirements of this part have been met, without regard to whether or not the alleged violator actually received such notice.

32.76. – Other remedies.

The provisions of this article are not the exclusive remedy or means for enforcement of the city code. The city's access to the courts of the state is neither precluded nor prohibited by the enactment of this article. Nothing contained in this article shall prohibit the city from enforcing its code by any other means. The enforcement procedures outlined herein are cumulative to all others and shall not be deemed to be prerequisites to filing suit for the enforcement of any section of the city code.

* * *

Section 3. Repeal. All sections or parts of the Code of Ordinances, all ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith, be and the same, are hereby repealed to the extent of such conflicts.

Section 4. Severability. That should any section or provision of this Ordinance, or any portion thereof, of any paragraph, sentence or word, be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof, as a whole or a part thereof other than the part declared to be invalid.

Section 5. Inclusion into the Code. It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a

CODING: Words in ~~struck through~~ type are deletions from existing law;
Words in underscored type are additions.

part of the Code of the City of Miami Springs; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Implementation. The City Manager, City Attorney, and City Clerk are hereby authorizes to take such action as may be necessary to implement the purpose and provisions of this Ordinance.

Section 7. Effective Date. This Ordinance shall be in force and take full effect immediately upon its passage and final adoption.

PASSED ON FIRST READING this 14th day of August, 2017, on a motion made by Vice Mayor Best and seconded by Councilwoman Zapata.

PASSED AND ADOPTED ON SECOND READING this 28th day of August 2017, on a motion made by Vice Mayor Best and seconded by Councilwoman Mitchell.

Vice Mayor Bob Best	<u>YES</u>
Councilwoman Maria Mitchell	<u>YES</u>
Councilwoman Mara Zapata	<u>YES</u>
Councilman Jaime Petralanda	<u>YES</u>
Mayor Billy Bain	<u>YES</u>



Billy Bain, Mayor

ATTEST:



Erika Gonzalez-Santamaria, MMC, City Clerk



APPROVED AS TO LEGALITY AND FORM:



Weiss Serota Helfman Cole & Bierman, PL
City Attorney

CODING: Words in ~~struck through~~ type are deletions from existing law;
Words in underscored type are additions.